



33-SBE-008

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
W. D. BALLINGER COMPANY)

Appearances:

For Appellant: W. D. Ballinger, President of Appellant
Corporation
For Respondent: Chas. J. McColgan, Franchise Tax Commissioner

O P I N I O N

This is an appeal pursuant to Section 25 of the Bank and Corporation Franchise Tax Act (Chapter 13, Statutes of 1929, as amended) from the action of the Franchise Tax Commissioner in overruling the protest of W. D. Ballinger Company, a corporation, to a proposed assessment of an additional tax in the amount of \$27.51 for the year 1932, based upon its return for the year ended December 31, 1931.

The sole problem involved in this appeal is whether certain (accounts of Appellant should be considered bad debts for the year 1931 or whether they should be considered as applicable to prior years. A list of these accounts follows:

| <u>Name of Account</u> | <u>When Incurred</u> | <u>Last Credit</u> | <u>Amount</u> |
|------------------------|----------------------|--------------------|-----------------|
| J. E. Echols | 1926 | Prior 1927 | 250.00 |
| E. C. Darrow | 1926 | " 1927 | 21.67 |
| M. T. Hughes | 1926 | " 1927 | 127.50 |
| W. A. Yochem | 1928 | None | 200.00 |
| General Sales Co, | 1928 | Prior 1929 | 4.08 |
| W. R. W. Nichols | 1928 | " 1929 | 5.00 |
| W. J. Cooke | 1928 | None | 271.36 |
| T. R. Graham | 1926 | 1930 | 13.94 |
| Spreckels Cigar Store | 1928 | 1930 | 764.77 |
| | | | <u>1,658.32</u> |

In computing Appellant's net income for the year 1931, the Commissioner disallowed as deductions all of the above items, In so doing, the Appellant contends the Commissioner erred.

From the evidence submitted by Appellant, we are satisfied that all of the above accounts were bad debts for the year 1931 and should be deducted in arriving at Appellant's net income for said year, with the exception of the accounts incurred during the year 1926. It should be observed that actions to recover debts incurred in 1926 were barred by the statute of limitations in 1930. Consequently, the accounts incurred in 1926 must be regarded as bad debts applicable to the year 1930 or prior years,

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and not to the year 1931.

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED; ADJUDGED AND DECREED, that the action of Hon. Chas. J. McColgan, Franchise Tax Commissioner, in overruling the protest of W. D. Ballinger Company, a corporation, against a proposed assessment of an additional tax in the amount of \$27.51, based upon the return of said corporation for the year ended December 31, 1931, be and the same is hereby modified. Said action is reversed insofar as the Commissioner disallowed as a deduction the following items:

| | | | |
|-----------------------|------|------------|-----------|
| W. A. Yochem | 1928 | None | \$ 200.00 |
| General Sales Co. | 1928 | Prior 1929 | 4.08 |
| W.R.W. Nichols | 1928 | " 1929 | 5.00 |
| W.J. Cooke | 1928 | None | 271.36 |
| Spreckels Cigar Store | 1928 | 1930 | 764.77 |

In all other respects, said action is sustained. The correct amount of the tax to be assessed to the W. D. Ballinger Company is hereby determined as the amount produced by means of a computation which will include the allowance as a deduction of the above amounts in the calculation thereof. The Commissioner, is hereby directed to proceed in conformity with this order and to send the said W. D. Ballinger Company a notice of assessment revised in accordance therewith.

Done at Sacramento, California, this 20th day of February, 1933, by the State Board of Equalization.

R. E. Collins, Chairman
Jno. C. Corbett, Member
H. G. Cattell, Member
Fred Stewart, Member

ATTEST: Dixwell L. Pierce, Secretary